

**ORDINANCE AUTHORIZING
\$25,005,000
CITY OF NEW BRAUNFELS, TEXAS,
UTILITY SYSTEM REVENUE PROGRAM NOTES
TAXABLE SERIES**

ORDINANCE NO. 2026-[]

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An Ordinance Authorizing the Issuance of "City of New Braunfels, Texas, Utility System Revenue Program Notes, Taxable Series" in an Aggregate Principal Amount of Not to Exceed \$25,005,000 to Provide Interim Financing to Pay Project Costs for Eligible Project for the City's Utility System, Approving and Authorizing the Execution of Agreements to be Entered into in Connection with the Program Notes and Resolving Other Matters Incident and Related Thereto.

WHEREAS, the City of New Braunfels, Texas (the *City*) is a "Home-Rule City", acting as such under the Constitution and general laws of the State of Texas, has a population in excess of 50,000, and has outstanding long-term indebtedness that is rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for a long-term obligation (without regard to credit enhancement); and

WHEREAS, the City Council (the *City Council*) of the City hereby determines to issue its short term obligations pursuant to the provisions of Texas Government Code, Chapter 1371, as amended (*Chapter 1371*), to provide interim financing for eligible projects as authorized by the Act for the City's Utilities System (the *System*) and to refund obligations issued in connection with such projects; and

WHEREAS, such short term obligations proposed to be issued pursuant to this Ordinance constitute obligations which the City intends to fund or refund through the issuance of obligations of the City payable from Net Revenues of the System, as permitted by Texas Government Code, Chapter 1502, as amended (*Chapter 1502*), including refunding bonds issued pursuant to and in accordance with the provisions of Texas Government Code, Chapter 1207, as amended; and

WHEREAS, the management and control of the System is conducted for the City by the Board of Trustees (the *Board*) of New Braunfels Utilities (*NBU*) established and created pursuant to the provisions of Section 1502.051 et seq., as amended, Texas Government Code; and

WHEREAS, Program Notes designated as "City of New Braunfels, Texas, Utility System Revenue Program Notes, Taxable Series" (the *Program Notes*) are hereby authorized to be issued in the principal amount at any one time outstanding of not to exceed \$25,005,000 (*the Program Capacity*); and

WHEREAS, the program notes proposed to be issued constitute bond anticipation notes which the City intends to refund through the issuance of its revenue bonds issued pursuant to Chapter 1207, as amended, Texas Government Code, as contemplated and permitted under Section 1371.057(c) of the Act; and

WHEREAS, arrangements relating to such interim financing have been settled and the City Council hereby finds and determines that the issuance of Program Notes in the form of one or more series, and related notes (executed in connection with the Note Purchase Agreement) subject to the terms, conditions and limitations hereinafter prescribed, should be approved and authorized at this time; and

WHEREAS, the City Council hereby finds and determines that the authorization of the aforementioned series of Program Notes and the adoption of this Ordinance are in the best interests of the residents of the City and the ratepayers of the System; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS:

SECTION 1. DEFINITIONS. The terms below have the following meanings, unless the text specifically indicates otherwise:*Act* shall mean, together, Chapter 1371 and Chapter 1502.

Additional Senior Lien Obligations shall mean bonds, notes, warrants, certificates of obligations or other Debt which the City reserves the right to issue or enter into, as the case may be, in the future under the terms and conditions provided in the Senior Lien Obligations Ordinances and which obligations are equally and ratably secured solely by a first lien on and pledge of the Net Revenues on a parity with the currently outstanding Previously Issued Senior Lien Obligations and any Additional Senior Lien Obligations hereafter issued by the City.

Additional Subordinate Lien Obligations shall mean bonds, notes, warrants, certificates of obligations or other Debt which the City reserves the right to issue or enter into, as the case may be, in the future under the terms and conditions provided in the Subordinate Lien Obligations Ordinances and which obligations are equally and ratably secured solely by a lien on and pledge of the Net Revenues, such pledge being subordinate and inferior to the lien on and pledge of the Net Revenues that are or will be pledged to the payment of the outstanding Senior Lien Obligations issued from time to time by the City and which obligations are on a parity with the Commercial Paper Notes and the Program Notes.

Agreement or Note Purchase Agreement shall mean the Note Purchase Agreement between the City and the Bank, together with any Program Note, and any amendments, restatements, supplements or other modifications.

Authorized Installment shall mean, on the Original Issue Date, an amount equal to \$5,000 and on each Issue Date thereafter, an amount equal to the amount of any draw upon the Financial Security by ERCOT, reflecting payment by the Bank of the purchase price of such Authorized Installment of the Program Notes to ERCOT on behalf of the City.

Authorized Installment Draw Period shall mean the period commencing on the Original Issue Date and ending immediately following the effective date of the end of the term of the Financial Security, whether by termination, non-renewal or otherwise.

Authorized Representative shall mean the person or persons designated from time to time as the Authorized Representative by the City, notice of which is delivered in writing to the Bank, and the Issuing and Paying Agent. The Authorized Representative of the City shall be, initially, the City Manager of the City, the President of the Board of Trustees of NBU, the Chief Executive Officer of NBU, the Chief Financial Officer of NBU, any party succeeding to substantially all or part of the responsibilities and duties of any of the foregoing regardless of title, or such other officer or employee of the City designated by the City or the Board to act as an Authorized Representative.

Bank shall mean Wells Fargo Bank, National Association, and its successors and assigns under the Agreement.

Base Rate has the meaning set forth in the Note Purchase Agreement.

Bonds shall mean a series or issue of bonds, notes, or similar obligations (other than the Commercial Paper Notes, or the Program Notes) issued or incurred by the City after the passage of the Ordinance, payable from and secured solely by a lien on and pledge of the Pledged Revenues or Net Revenues, on a parity in rank and dignity, or subordinate in rank and dignity to the lien and pledge securing the payment of the currently outstanding Senior Lien Obligations.

Business Day shall mean any day (a) when (i) the office of the Bank is not authorized or required to be closed and (ii) banks are not authorized to be closed in the City and (b) when banks or the New York Stock Exchange are not authorized to be closed in New York, New York.

Chapter 1371 shall mean Chapter 1371 of the Texas Government Code, as amended.

Chapter 1502 shall mean Chapter 1502 of the Texas Government Code, as amended.

City shall mean the City of New Braunfels, Texas.

Code shall mean the Internal Revenue Code of 1986.

Commercial Paper Notes shall mean, collectively, the “City of New Braunfels, Texas Utility System Program Notes, Taxable Series 2021”, “City of New Braunfels, Texas, Utility System Revenue Commercial Paper Notes, Series 2026A”, and the “City of New Braunfels, Texas, Utility System Revenue Commercial Paper Notes, Series 2026B”, each as from time to time amended or supplemented by council, and authorized to be issued in the forms of commercial paper notes and direct purchase notes.

Council or City Council or council shall mean the governing body of the City.

Debt shall mean

- (1) all indebtedness payable from Pledged Revenues and/or Net Revenues incurred or assumed by the City for borrowed money (including indebtedness payable from Pledged Revenues and/or Net Revenues arising under the Note Purchase Agreement) and all other financing obligations of the System payable from Pledged Revenues and/or Net Revenues that, in accordance with generally accepted accounting principles, are shown on the liability side of a balance sheet; and
- (2) all other indebtedness payable from Pledged Revenues and/or Net Revenues (other than indebtedness otherwise treated as Debt hereunder) for borrowed money or for the acquisition, construction, or improvement of property or capitalized lease obligations pertaining to the System that is guaranteed, directly or indirectly, in any manner by the City, or that is in effect guaranteed, directly or indirectly, by the City through an agreement, contingent or otherwise, to purchase any such indebtedness or to advance or supply funds for the payment or purchase of any such indebtedness

or to purchase property or services primarily for the purpose of enabling the debtor or seller to make payment of such indebtedness, or to assure the owner of the indebtedness against loss, or to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether or not such property is delivered or such services are rendered) or otherwise.

For the purpose of determining “Debt”, there shall be excluded any particular Debt if, upon or prior to the maturity thereof, there shall have been deposited with the proper depository (a) in trust the necessary funds (or investments that will provide sufficient funds, if permitted by the instrument creating such Debt) for the payment, redemption, or satisfaction of such Debt or (b) evidence of such Debt deposited for cancellation; and thereafter it shall not be considered Debt unless such item constitutes indebtedness under generally accepted accounting principles applied on a basis consistent with the financial statements of the System in prior Fiscal Years.

Designated Office means the corporate trust office of the Paying Agent/Registrar designated as the place for payment, transfer and exchange of the Program Notes, initially, the corporate trust office of the Paying Agent/Registrar in [_____], Texas.

Eligible Investments shall mean any or all of the authorized investments described in the Public Funds Investment Act, as amended, Chapter 2256, Texas Government Code, in which the City or the Board may purchase, sell and invest its funds and funds under its control or any other authorized investments as provided by the laws of the State of Texas.

Eligible Project shall mean any eligible project as defined in Section 1371.001(2)(A) of the Act, as the same may be amended from time to time.

ERCOT shall mean The Electric Reliability Council of Texas and any successor thereto.

Financial Security shall mean the letter of credit issued by the Bank pursuant to the terms of the Note Purchase Agreement (and any extension or amendment of such letter of credit or any substitute or replacement letter of credit of the Bank) delivered to ERCOT, as beneficiary, for the account of the City pursuant to Section 16 of the ERCOT Nodal Protocols.

Fiscal Year shall mean the fiscal year used by the Board in connection with the operation of the System, now being the period of time beginning on August 1 and ending on July 31 of the same calendar year.

Government Securities shall mean (i) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by, the United States of America; (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent; (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally

recognized investment rating firm not less than AAA or its equivalent; or (iv) any additional securities and obligations hereafter authorized by the laws of the State of Texas as eligible for use to accomplish the discharge of obligations such as the Program Notes.

Gross Revenues shall mean for any period all revenue during such period in respect or on account of the operation or ownership of the System, excluding (i) refundable meter deposits, (ii) restricted gifts, (iii) grants in aid of construction, (iv) any amounts payable to the United States as rebate pursuant to the provisions of the Senior Lien Obligations Ordinances, (v) any impact fees charged by the System pursuant to the provisions of Chapter 395, as amended, Texas Local Government Code and earnings and income derived from the investment or deposit of money in any project fund and, the Reserve Fund, but including earnings and income derived from the investment or deposit of money in the Bond Fund (as defined in, and created pursuant to, the Senior Lien Obligations Ordinances), the Reserve Fund after it contains the Required Reserve, and any earnings and income from any special fund or account created and established for the payment or security of any Senior Lien Obligations and Subordinate Lien Obligations of the City related to the System (unless the ordinance which authorizes the issuance of any such obligations specifically provides that any such earnings and income are to be deposited to another fund or account other than the System Fund).

Holder or Noteholder shall mean the registered owner of any Program Note as shown on the registration books maintained by the Registrar, but if a Program Note is not in registered form, such terms shall mean any person, firm, association, or corporation who is in possession of any Program Note drawn, issued or endorsed to such person, firm, association or corporation or to the order of such person, firm, association or corporation or to bearer or in blank.

Initial Note shall mean the Program Note, Number T-1, delivered to and held by the Paying Agent/Registrar on the Original Issue Date.

Issue Date shall mean the date of delivery of an Authorized Installment of the Program Notes.

Latest Draw Date shall mean [month] [day], 20[___], as may be extended in accordance with the Note Purchase Agreement.

Maintenance and Operating Expenses shall mean all current expenses of operating and maintaining the System not paid from the proceeds of any Debt, including (i) the cost of all salaries, labor, materials, repairs, and extensions necessary to render efficient service, but only if, in the case of repairs and extensions, they are, in the judgment of the Board (reasonably and fairly exercised), necessary to maintain operation of the System and render adequate service to the City and the inhabitants thereof and other customers of the System, or are necessary to meet some physical accident or condition which would otherwise impair the payment of Debt, (ii) payments to pension, retirement, health, hospitalization, and other employee benefit funds for employees of the Board engaged in the operation or maintenance of the System, (iii) payments under contracts for the purchase of water supply, treatment of sewage, or other materials, goods, or services for the System to the extent authorized by law and the provisions of such contract, (iv) payments to auditors, attorneys, and other consultants incurred in complying with the obligations of the City or the Board hereunder, (v) the payments made on or in respect of obtaining and maintaining any

Credit Facility, and (vi) any legal liability of the City or the Board arising out of the operations, maintenance, or condition of the System, but excluding any allowance for depreciation, property retirement, depletion, obsolescence, and other items not requiring an outlay of cash and any interest on any Debt.

Maximum Available Amount shall mean the maximum amount that is available to be drawn on the Financial Security on any particular day plus \$5,000, which shall initially be in the principal amount not to exceed \$25,005,000 as evidenced in the Initial Note.

Maximum Interest Rate shall mean the lesser of the (i) maximum net effective interest rate (as defined in and calculated in accordance with the provisions of Chapter 1204, Texas Government Code, as amended) and (ii) maximum non usurious lawful rate of interest permitted by applicable law.

Maximum Maturity Date shall mean [month] [day], 20[___], being ninety (90) days after the Latest Draw Date, as may be extended in accordance with the Note Purchase Agreement.

Net Revenues shall mean the Gross Revenues of the System, less current expenses of operation and maintenance, including all salaries, labor, materials, repairs and extensions necessary to render efficient service, provided, however, that only such repairs and extensions as in the judgment of the Board of Trustees, reasonably and fairly exercised, are necessary to keep the System in operation and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the security of any bonds payable from and secured by a lien on the Net Revenues of the System shall be deducted in determining "Net Revenues". Payments pursuant to contracts for the purchase of power and energy, supply of water and other materials, goods or services for the System to the extent authorized by law and the provisions of such contracts are also included and defined as operating and maintenance expenses of the System.

Note Payment Fund shall mean the fund so designated in **Section 16**.

Ordinance shall mean this ordinance.

Original Issue Date shall mean the date of delivery of the initial Authorized Installment, the Note Purchase Agreement and the Financial Security.

Paying Agent, Paying Agent/Registrar or Registrar shall mean the agent appointed pursuant to **Section 3**, or any successor to the agent.

Paying Agent/Registrar Agreement shall mean the agreement authorized to be entered into by **Section 3**, as from time to time amended, restated, supplemented or otherwise modified.

Pledged Revenues shall mean (i) the Net Revenues, plus (ii) any additional revenues, income, receipts, or other resources, including, without limitation, any grants, donations, or income received or to be received from the United States Government, or any other public or private source, whether pursuant to an agreement or otherwise, which hereafter are pledged to the payment of any Senior Lien Obligations, and excluding those revenues excluded from Gross Revenues.

Previously Issued Senior Lien Obligations shall mean (i) the outstanding and unpaid obligations of the City that are payable solely from and equally and ratably secured by a first lien on and pledge of the Net Revenues of the System, identified as follows:

- (1) “City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2004”, dated January 15, 2004, and issued in the original principal amount of \$10,337,595.90;
- (2) “City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2015,” dated January 15, 2015, and issued in the original principal amount of \$26,870,000;
- (3) “City of New Braunfels, Texas, Utility System Revenue and Refunding Bonds, Series 2016,” dated March 1, 2016, and issued in the original principal amount of \$62,235,000;
- (4) “City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2018, dated April 1, 2018, and issued in the original principal amount of \$45,200,000;
- (5) “City of New Braunfels, Texas, Utility System Revenue Refunding Bonds, Series 2020,” dated May 1, 2020, and issued in the original principal amount of \$88,100,000;
- (6) “City of New Braunfels, Texas, Utility System Revenue Refunding Bonds, Series 2021,” dated July 1, 2021, and issued in the original principal amount of \$68,250,000;
- (7) “City of New Braunfels, Texas, Utility System Revenue Refunding Bonds, Series 2022,” dated July 1, 2022, and issued in the original principal amount of \$73,855,000;
- (8) “City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2022A,” dated September 1, 2022, and issued in the original principal amount of \$40,000,000;
- (9) “City of New Braunfels, Texas, Utility System Revenue and Refunding Bonds, Series 2024,” dated January 15, 2024, and issued in the original principal amount of \$118,745,000;
- (10) “City of New Braunfels, Texas, Utility System Revenue Refunding Bonds, Series 2025,” dated May 15, 2025, and issued in the original principal amount of \$82,590,000;
- (11) “City of New Braunfels, Texas, Utility System Revenue and Refunding Bonds, Series 2026,” dated May 15, 2026, and issued in the original principal amount of \$295,795,000;
- (12) “City of New Braunfels, Texas, Utility System Revenue Bonds, Taxable Series 2026A (Texas Water Development Board - Drinking Water State Revolving

Fund Lead Service Line Replacement Program),” dated June 1, 2026, and issued in the original principal amount of \$490,000;

and (ii) obligations hereafter issued to refund any of the foregoing if issued in a manner so as to be payable from and equally and ratably secured by a first lien on and pledge of the Pledged Revenues and/or Net Revenues of the System as determined by the City Council in accordance with any applicable law.

Project Costs shall mean all costs and expenses incurred in relation to Eligible Projects, including without limitation design, planning, engineering and legal costs, acquisition costs of land, interests in land, right-of-way and easements, construction costs, costs of machinery, equipment, and other capital assets incident and related to the operation, maintenance, and administration of an Eligible Project, financing costs, including interest during construction and thereafter, underwriter’s discount and/or fees, legal, financial, and other professional services, and reimbursement for such Project Costs attributable to Eligible Projects incurred prior to the issuance of any Program Notes.

Regulations shall mean all applicable temporary, proposed and final regulations and procedures promulgated under the Code or the Internal Revenue Code of 1954, to the extent applicable to the Code.

Related Documents shall have the meaning set forth in the Note Purchase Agreement.

Schedule of Authorized Installment Deliveries shall mean the schedule attached to the Initial Note and maintained by the Paying Agent/Registrar evidencing the terms of each Authorized Installment delivered to the Bank.

Senior Lien Obligations shall mean, collectively, the currently outstanding Previously Issued Senior Lien Obligations, and any Additional Senior Lien Obligations hereafter issued by the City.

Senior Lien Obligations Ordinances shall mean the City ordinances authorizing the currently outstanding Previously Issued Senior Lien Obligations, and any Additional Senior Lien Obligations hereafter issued by the City.

Similarly Secured Notes shall mean the Program Notes, the Commercial Paper Notes and any bonds or other obligations of the City payable, in whole or in part, from and secured by a parity lien on and pledge of Pledged Revenues.

Special Project shall mean to the extent permitted by law, any water, sanitary sewer, wastewater or electric light and power system property, improvement, or facility declared by the City, upon the recommendation of the Board, not to be part of the System, for which the costs or acquisition, construction, and installation are paid from proceeds of a financing transaction other than the issuance of bonds payable from ad valorem taxes, Pledged Revenues, or Net Revenues and for which all maintenance and operation expenses are payable from sources other than ad valorem taxes, Pledged Revenues, or Net Revenues, but only to the extent that and for so long as all or any part of the revenues or proceeds of which are or will be pledged to secure the payment

or repayment of such costs of acquisition, construction and installation under such financing transaction.

Subordinate Lien Obligations shall mean any bonds, notes, warrants, certificates of obligation, or other Debt issued from time to time by the City that are payable, in whole or in part, from and equally and ratably secured by a lien on and pledge of the Net Revenues, such pledge being subordinate and inferior to the lien on and pledge of the Net Revenues that are or will be pledged to the payment of the outstanding Senior Lien Obligations issued from time to time by the City and which obligations are on a parity with the Program Notes and the Commercial Paper Notes, and, in addition to the Program Notes and the Commercial Paper Notes includes:

- (1) “City of New Braunfels, Texas, Utility System Program Notes, Taxable Series 2021,” issued in the maximum principal amount of \$75,000,000.

Subordinate Lien Obligations Ordinances shall mean the City ordinances authorizing the currently outstanding Subordinate Lien Obligations, and any Additional Subordinate Lien Obligations hereafter issued by the City.

Stated Amount shall mean, initially, \$[25,005,000], the maximum amount that is available to be drawn on the Financial Security on the Closing Date, as adjusted from time to time in accordance with the terms of the Note Purchase Agreement and the Financial Security.

System shall mean the City’s waterworks, sanitary sewer and electric light and power systems and all properties, real, personal, mixed or otherwise now owned or hereafter acquired by the City through purchase, construction or otherwise and used in connection with said System and in any wise appertaining thereto, whether situated within or without the limits of the City.

Terms not defined by, but used in, the Ordinance shall have the meanings given in the Note Purchase Agreement, as the context requires.

The authorized amount of Program Notes to be issued and sold shall be limited to the Maximum Available Amount.

In accordance with the provisions of Chapter 1371, council delegates to each Authorized Representative the authority to affect the issuance and sale of Program Notes and any adjustments to the Stated Amount pursuant to Section [2.1] of the Note Purchase Agreement, all within certain specified parameters set forth in the Ordinance. The sale of Program Notes on the terms determined by an Authorized Representative is in the best interests of the City.

If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 2. AUTHORIZATION – DESIGNATION – PRINCIPAL AMOUNT - PURPOSE. Acting under authority of the Act, council authorizes the issuance of Program Notes designated the “**CITY OF NEW BRAUNFELS, TEXAS, UTILITY SYSTEM REVENUE PROGRAM NOTES, TAXABLE SERIES**”. The Program Notes shall be issued as fully

registered notes, payable to the Bank, and may be issued from time to time and in an aggregate principal amount not to exceed [TWENTY FIVE MILLION FIVE THOUSAND] DOLLARS (\$25,005,000) for the purpose of financing Project Costs of Eligible Projects all in accordance with the Act and the terms, conditions, and limitations contained in this Ordinance. In connection with the issuance of the Financial Security and the execution of the Note Purchase Agreement, an Initial Note shall be issued on the Original Issue Date in an amount equal to the Maximum Available Amount, reflecting the maximum principal amount of the Program Notes that may be issued, under this Ordinance for the purpose of evidencing Authorized Installments and all other obligations of the City under the Note Purchase Agreement; all in accordance with and subject to the terms, conditions and limitations contained in the Ordinance and the Note Purchase Agreement. The Initial Note shall, after approval by the Attorney General of the State of Texas and registration by the Comptroller of Public Account of the State of Texas, be held by the Paying Agent/Registrar.

The initial Authorized Installment of the Program Notes in the amount of \$[5,000] delivered on the Original Issue Date shall be dated as of Original Issue Date. An Authorized Installment of the Program Notes delivered after the Original Issue Date shall be dated as of its Issue Date. The Authorized Installments of the Program Notes shall bear interest as determined in the Note Purchase Agreement from the Issue Date of an Authorized Installment of the Program Notes until payment of the principal amount thereof at maturity or prior redemption or prepayment.

Subject to applicable terms, limitations, and procedures contained herein, after the delivery of the initial Authorized Installment, Authorized Installments of the Program Notes may be purchased and issued pursuant to the terms of the Note Purchase Agreement in consideration of and in the amount of, any draw upon the Financial Security by ERCOT, reflecting payment by the Bank of the purchase price of such Authorized Installments concurrently upon payment to ERCOT, on behalf of the City, pursuant to such draw upon the Financial Security. No Authorized Installments may be issued after the end of the Authorized Installment Draw Period, and no Authorized Installment may be issued in an amount that exceeds the Maximum Available Amount in effect as of the date of the applicable draw on the Financial Security; provided that the aggregate principal amount of all Authorized Installments issued and delivered under this Ordinance may at times exceed the then applicable Maximum Available Amount due to a reduction in such amount subsequent to the issuance of Authorized Installments pursuant to the terms of the Financial Security, if provided for by the Financial Security. The City shall promptly notify the Paying Agent/Registrar of any changes to the Maximum Available Amount made pursuant to the Note Purchase Agreement and of the end of the Authorized Installment Draw Period, provided that the Paying Agent/Registrar may alternatively receive actual notice of such events from the Bank.

The authority to issue Authorized Installments from time to time under the provisions of the Ordinance shall exist during the Authorized Installment Draw Period until the Latest Draw Date, regardless of whether prior to the Latest Draw Date there are at any time no outstanding Program Notes.

In connection with the refinancing or refunding of outstanding Program Notes, Senior Lien Obligations, Commercial Paper Notes, and any other authorized obligations of the System, including accrued interest, the Program Notes, Senior Lien Obligations, Commercial Paper Notes, and any other authorized obligations of the System shall qualify as “obligations”, as defined in the Act, at the time any refinancing or refunding occurs. The refunding or refinancing, other than a

simultaneous refunding, of Program Notes, Senior Lien Obligations, Commercial Paper Notes, and other obligations of the System, to the extent then required by applicable law, shall be by means of a gross defeasance established at the time of the issuance of the refunding Program Notes, and the selection of Program Notes, Senior Lien Obligations, Commercial Paper Notes, and any other authorized obligations of the System to be so refunded or refinanced shall be made in the manner council determines.

SECTION 3. TERMS APPLICABLE TO THE PROGRAM NOTES. Subject to the limitations contained in the Ordinance, the Initial Note shall be dated as of the Original Issue Date and each Authorized Installment shall be dated as of their Issue Date; shall bear interest in accordance with the terms of the Note Purchase Agreement; and all Program Notes shall be issued on or before the Latest Draw Date and shall mature no later than the Maximum Maturity Date.

Subject to applicable terms, limitations and procedures contained in this Ordinance, after delivery of the Initial Authorized Installment, Authorized Installments may be purchased and issued pursuant to the terms of the Note Purchase Agreement in consideration of and in the amount of, any draw upon the Financial Security by ERCOT, reflecting payment by the Bank of the purchase price of such Authorized Installment concurrently upon payment to ERCOT, on behalf of the City, pursuant to such draw upon the Financial Security.

The Bank shall give notice to the City, NBU, and the Paying Agent/Registrar of any draw upon the Financial Security by ERCOT, provided such notice is not required for the issuance of an Authorized Installment. The Paying Agent/Registrar shall issue and deliver an Authorized Installment in the principal amount of any draw on the Financial Security to the Bank pursuant to the terms of this Ordinance and the Note Purchase Agreement by noting the issuance of such Authorized Installment on the Schedule of Authorized Installment Deliveries attached to the Initial Note; provided, however, in consideration of the delivery of the Financial Security and the unconditional obligation of the Bank thereunder, any particular Authorized Installment corresponding to the related draw of the Financial Security is deemed purchased and issued to the Bank on the date of such drawing.

Council confirms that [_____] shall serve Paying Agent/Registrar for the Program Notes, and the City covenants to keep and maintain with the Registrar at its Designated Office books and records (Registration Books) for the registration, payment, transfer and exchange of the Program Notes, all as provided in the Ordinance and reasonable rules and regulations as the Registrar may prescribe. The City covenants to maintain and provide a Registrar at all times while the Program Notes are outstanding, which shall be a national or state banking association or corporation or trust company organized and doing business under the laws of the United States of America or of any state and authorized under its laws to exercise trust powers. Any successor Paying Agent/Registrar shall be appointed in accordance with the Note Purchase Agreement. Should a change in the Paying Agent/Registrar for the Program Notes occur, the City agrees to promptly cause a written notice to be (i) sent to the Bank and to each registered owner of the Program Notes then outstanding by United States mail, first-class postage prepaid, and (ii) published in a financial publication, newspaper, journal, or reporter of general circulation among securities dealers in the City of New York, New York (including, but not limited to, *The Bond Buyer* and *The Wall Street Journal*), or in the State of Texas (including, but not limited to, *The Texas Bond Reporter*), once during each calendar week for at least two

calendar weeks; provided, however, publication of notice is not required if notice is sent to each Holder of the Program Notes. The notice shall give the address of the successor Paying Agent/Registrar. Council may appoint a successor Paying Agent/Registrar without the consent of the Holders.

The Program Notes shall be issued in registered form, without coupons; provided, however, Program Notes may be registered to bearer. The principal of and interest on the Program Notes shall be payable in lawful money of the United States of America, without exchange or collection charges to the Holder of the Program Note; principal is to be payable upon presentation and surrender of the Program Note at the Designated Office and interest is to be payable to the registered owner thereof (when registered other than to bearer) either (i) by check sent by United States mail, first-class postage prepaid, to the address of the registered owner appearing on the Registration Books of the City maintained by the Registrar or (ii) by any other method, acceptable to the Paying Agent/Registrar, requested by the Holder, including, without limitation, by wire transfer, but interest on a Program Note registered to bearer shall be payable only upon presentation of the Program Note at the Designated Office.

A copy of the Registration Books shall be provided to the City by the Paying Agent/Registrar, by means of telecommunications equipment or other means as are mutually agreed to, within two Business Days of either the opening of the Registration Books or any change in the Registration Books.

The City and the Paying Agent/Registrar may treat the bearer (in the case of Program Notes so registered) or the registered payee as the absolute owner of any Program Note for the purpose of receiving payment and for all purposes, and the City and the Paying Agent/Registrar shall not be affected by any notice or knowledge to the contrary.

SECTION 4. AUTHORIZED INSTALLMENTS. Authorized Installments of the Program Notes other than the Initial Authorized Installment are authorized to be issued and sold from time to time, but not later than the Latest Draw Date, in consideration of and in the amount of, any draw upon the Financial Security by ERCOT, and to mature and become due and payable, subject to earlier redemption as provided in the Note Purchase Agreement, on the dates as an Authorized Representative shall determine at the time of sale and issuance; provided, however, that no Authorized Installments shall (i) mature after the Maximum Maturity Date, (ii) have a term in excess of ninety (90) days or (iii) be issued in a manner that would cause the City to violate the covenants set forth in **Section 7**. Interest, if any, on Authorized Installments shall be payable at maturity with principal or as otherwise provided in the Note Purchase Agreement.

An Authorized Representative will notify the Bank of each new issuance of an Authorized Installment and confirm that at the time of the new issuance (after giving effect to the new issuance), the aggregate principal amount of Program Notes issued does not exceed \$[25,005,000].

SECTION 5. ISSUANCE AND SALE OF PROGRAM NOTES.

(a) *Delegation to Authorized Representative.* As authorized by Chapter 1371 and this Ordinance, each Authorized Representative is hereby authorized to act on behalf of the City in selling and delivering the Program Notes, including the Authorized Installments, and carrying out

the other procedures specified in this Ordinance, including determining and fixing (i) the Original Issue Date of the Program Notes, (ii) the principal amount of the initial Authorized Installment, (iii) the price at which the Program Notes will be sold, (iv) the date or dates in which the Program Notes will mature, (v) the aggregate principal amount to mature on any such date or dates, (vi) the aggregate principal amount of Program Notes, (vii) the rate of interest to be borne by the Program Notes, (viii) the interest dates and payment periods, (ix) the dates, price, and terms, if any, upon and at which the Program notes shall be subject to redemption or prepayment prior to maturity at the option of the City, (x) the dated dates of the Initial Note and the initial Authorized Installment of the Program Notes delivered on the Original Issue Date, (xi) any adjustments to the Stated Amount pursuant to Section [2.1] of the Note Purchase Agreement, and (xii) all other matters relating to the issuance, sale, and delivery of the Program Notes and the delivery of the Note Purchase Agreement; provided that (A) the price to be paid for the Program Notes shall not be less than 100% of the aggregate original principal amount thereof plus accrued interest thereon from their date to their delivery and (B) none of the Program Notes shall bear interest at a rate greater than the Maximum Interest Rate. It is further provided, however, that, notwithstanding the foregoing provisions, the Initial Note shall not be delivered unless prior to delivery, the Program Notes have been rated by a nationally recognized rating agency for municipal securities (I) in one of the four highest rating categories for long-term obligations or (II) in one of the three highest rating categories for short-term obligations, as required by Chapter 1371.

(b) *Completion of Authorized Installments.* Authorized Installments shall be completed and issued by the Paying Agent/Registrar in accordance with telephonic, electronic or written instructions of the Authorized Representative and the Paying Agent/Registrar Agreement. To the extent instructions are not written, they shall be confirmed in writing by the Authorized Representative within twenty-four (24) hours. The instructions shall specify the Authorized Installments to be issued and the principal amounts corresponding to the Authorized Installment with respect to the related draw on the Financial Security, the dates of issue, and the maturity (which shall be the earlier of 90 days from the related date of issuance and the Maximum Maturity Date). The instructions shall include the purchase price of the Authorized Installment and a request that the Paying Agent/Registrar register the Authorized Installment in the registration books maintained by the Paying Agent/Registrar, including evidencing the issuance of the Authorized Installment on the Schedule of Authorized Installment Deliveries attached to the Initial Note.

(c) *Execution of Note Purchase Agreement.* Upon its execution and delivery, the Note Purchase Agreement is in full force and effect and loans may be made in accordance with the terms of the Note Purchase Agreement.

SECTION 6. PROCEEDS OF SALE OF PROGRAM NOTES. The proceeds of the sale of the Initial Authorized Installment shall be applied by an Authorized Representative to pay a portion of the costs of the issuance of the Program Notes. Proceeds relating to any other Authorized Installment corresponding to a draw on the Financial Security by ERCOT will be for the payment, on behalf and for the benefit of the City, of the Project Costs of Eligible Projects.

SECTION 7. LIMITATION ON ISSUANCE. Unless council amends the Ordinance in accordance with the provisions of **Section 32**, the City covenants that there will not be issued under the Ordinance more than \$[25,005,000] in aggregate principal amount of Program Notes. For purposes of this **Section 7** any portion of outstanding Program Notes to be paid from money on

deposit in the Note Payment Fund, and available proceeds of Program Notes or Bonds shall not be considered outstanding on that day. The City shall not direct the Paying Agent/Registrar to issue Program Notes that mature after the Maximum Maturity Date.

While the Note Purchase Agreement is in effect and supports the payment of the principal amount of the Program Notes, the City covenants and agrees that the total principal amount of all Program Notes shall not exceed the Maximum Available Amount.

SECTION 8. PUNCTUAL PAYMENT. The City will punctually pay or cause to be paid the principal of and interest on the Program Notes (but only from the sources pledged by the Ordinance), in conformity with the Note Purchase Agreement, as applicable.

SECTION 9. PAYMENT AND PERFORMANCE ON BUSINESS DAYS. Whenever under the terms of the Ordinance or the Program Notes, the performance date of any of their provisions, including the payment of principal of or interest on the Program Notes, shall occur on a day other than a Business Day, then performance, including the payment of principal of and interest on the Program Notes, need not be made on that day but may be performed or paid on the next succeeding Business Day with the same force and effect as if made on that day.

SECTION 10. FORM OF INITIAL NOTE. The Initial Note and the Certificate of Authentication to appear on the Initial Note shall be substantially in the form set forth in **Exhibit A**, with appropriate insertions, omissions, substitutions and other variations as are permitted or required by the Ordinance, and may have letters, numbers or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and legends and endorsements as may be approved by an Authorized Representative. The Initial Note shall be printed, lithographed, or engraved or produced in any other similar manner, or typewritten, all as determined and approved by an Authorized Representative.

SECTION 11. EXECUTION - AUTHENTICATION. Under authority granted by Section 1371.055, Texas Government Code, the Initial Note shall be executed on behalf of the City by the Mayor, and attested by the City Secretary under its seal reproduced or impressed thereon, all as provided in **Section 10**. The signatures appearing on the Initial Note may be manual or facsimile. The Initial Note bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the date of passage of the Ordinance are duly executed on behalf of the City, regardless of whether any individual ceases to hold office at the time of the initial sale and delivery of the Initial Note or at the time Authorized Installments are delivered in future sales, exchanges and transfers, all as authorized and provided in Section 1371.055 and Chapter 1206, Texas Government Code.

No Initial Note shall be entitled to any right or benefit under the Ordinance, or be valid or obligatory for any purpose, unless there appears on the Initial Note a certificate of authentication executed by the Paying Agent/Registrar by manual signature, and the execution of any Initial Note by the Paying Agent/Registrar is the only evidence necessary for the Initial Note to be duly certified or registered and delivered.

SECTION 12. NOTES MUTILATED, LOST, DESTROYED OR STOLEN. If any Program Note shall become mutilated, the City, at the expense of the Holder of the Program Note, shall execute and deliver a new Program Note of like tenor and number in exchange and substitution for the Program Note so mutilated, but only upon surrender to the City of the Program Note so mutilated. If any Program Note shall be lost, destroyed or stolen, evidence of the loss, destruction or theft may be submitted to the City and, if evidence be satisfactory to it and indemnity satisfactory to it shall be given, the City, at the expense of the owner, shall execute and deliver a new Program Note of like tenor in lieu of and in substitution for the lost, destroyed or stolen Program Note. Neither the City nor the Paying Agent/Registrar shall be required to treat both the original Program Note and any duplicate Program Note as being outstanding for the purpose of determining the principal amount of Program Notes which may be issued hereunder, but both the original and the duplicate Program Note shall be treated as one and the same.

SECTION 13. NEGOTIABILITY, REGISTRATION AND EXCHANGEABILITY. The obligations issued under the Ordinance, including the Initial Note, shall be, and shall have all of the qualities and incidents of, a negotiable instrument under the laws of the State of Texas, and each successive Holder, in accepting any obligation, agrees that the obligations shall be and have all of the qualities and incidents of a negotiable instrument under the laws of the State of Texas.

The Registration Books relating to the registration, payment and transfer or exchange of the Program Notes shall at all times be kept and maintained by the City at the Designated Office of the Registrar, and the Registrar shall obtain, record and maintain in the Registration Books the name and address of each registered owner of the Program Notes, except for Program Notes registered to bearer, issued under the Ordinance, and the Registrar shall provide the information to the City as described in **Section 3**. Any Program Note may, in accordance with its terms and the terms of the Ordinance, be transferred or exchanged for Program Notes of like tenor and character upon the Registration Books by the Holder in person or by its duly authorized agent, upon surrender of the Program Note to the Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by its duly authorized agent, in form satisfactory to the Registrar.

Upon surrender for transfer of any Program Note at the Designated Office of the Registrar, the Registrar shall register and deliver, in the name of each designated transferee (or to bearer, as appropriate), one or more new Program Notes executed on behalf of, and furnished by, the City of like tenor and character and having the same maturity, bearing interest at the same rate or rates and of a like aggregate principal amount as the Program Note or Program Notes surrendered for transfer.

Program Notes may be exchanged for other Program Notes of like tenor and character and having the same maturity, bearing the same rate or rates of interest and of like aggregate principal amount as the Program Notes surrendered for exchange, upon surrender of the Program Notes to be exchanged at the Designated Office of the Registrar. Whenever any Program Notes is surrendered for exchange, the Registrar shall register and deliver new Program Notes of like tenor and character as the Program Notes exchanged, executed on behalf of, and furnished by, the City to the Holder requesting the exchange.

The City and the Registrar may charge the Noteholder a sum sufficient to reimburse them for any expenses incurred in making any exchange or transfer after the first exchange or transfer. The Registrar or the City may also require payment from the Holder of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto. These charges and expenses shall be paid before a new Program Note shall be delivered.

New Program Notes delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Program Notes surrendered, shall be secured by the Ordinance and shall be entitled to all of the security and benefits of the Ordinance to the same extent as the Program Notes surrendered.

The City reserves the right to change the registration and transferability provisions of the Program Notes at any time on or prior to the delivery of Program Notes in order to comply with applicable laws and regulations of the United States in effect at the time of their issuance.

SECTION 14. CANCELLATION. All Program Notes which at maturity are surrendered to the Paying Agent/Registrar for the collection of the principal and interest due and payable or are surrendered for transfer or exchange pursuant to the provisions of the Ordinance shall be cancelled by the Paying Agent/Registrar, and the Paying Agent/Registrar shall transmit to the City a certificate identifying the Program Notes that have been duly cancelled and destroyed.

SECTION 15. FISCAL AND OTHER AGENTS. The City may from time to time appoint and provide for the payment of additional fiscal, paying or other agents and trustees as council determines are necessary or appropriate in connection with the Program Notes.

SECTION 16. NOTE PAYMENT FUND. The creation, establishment and maintenance of a separate and special fund designated as the “**City of New Braunfels, Texas, Utility System Revenue Taxable Program Note Payment Fund**” (Note Payment Fund) with the Paying Agent/Registrar is confirmed. Moneys on deposit in the Note Payment Fund shall be used to pay the principal of and interest on Program Notes as the same shall become due and payable as provided in the Ordinance and the Note Purchase Agreement to repay any Authorized Installment and any other obligations of the City to the Bank under the Note Purchase Agreement (as evidenced by the Initial Note).

Pending the expenditure of moneys in the Note Payment Fund for authorized purposes, moneys deposited therein may be invested at the direction of the Chief Financial Officer of NBU or the designee thereof in Eligible Investments; provided, that moneys received by the City under the terms of the Note Purchase Agreement and moneys received in connection with a rollover of Program Notes shall remain uninvested.

SECTION 17. PLEDGE; PAYMENTS. The Program Notes and any obligations of the City to the Bank under the Note Purchase Agreement (including the Initial Note) are obligations of the City payable from and secured solely by the pledged funds pursuant to this Ordinance. The City agrees to make payments into the Note Payment Fund at the times and in the amounts as are necessary to provide for the full payment of the principal of and the interest on the Program Notes when due, and the repayment of Authorized Installments made under and pursuant to the Note

Purchase Agreement and any obligations of the City to the Bank under the Note Purchase Agreement.

To provide security for the payment of the principal of and interest on the Program Notes as the same shall become due and payable and any other amounts due and owing under the Note Purchase Agreement, the City grants a lien on and pledge of, subject only to the provisions of the Ordinance permitting the application of the sources listed for purposes and on the terms and conditions set forth in the Ordinance, (i) the proceeds from the sale of Bonds issued and to be used to pay outstanding Program Notes, (ii) the amounts held in the Note Payment Fund until those amounts are used for authorized purposes, and (iii) the Pledged Revenues of the System, however, (a) on a parity with the lien and pledge securing the payment of the Program Notes made under and pursuant to the Note Purchase Agreement and all other amounts payable by the City under the Note Purchase Agreement and the Similarly Secured Notes, and (b) subordinate to the lien on and pledge securing the payment of Senior Lien Obligations. Council declares that the principal of and interest on the Program Notes and any other amounts due under the Note Purchase Agreement shall be and are hereby equally and ratably secured by and payable from a lien on and pledge of the sources identified in clauses (i), (ii), and (iii) subject and subordinate only to the exceptions noted above.

To provide security for the payment of the principal of and interest on the Program Notes and any other amounts payable under the Note Purchase Agreement as the same shall become due and payable, the City grants a lien on and pledge of the Pledged Revenues, subject only to the provisions of the Ordinance permitting the application of Pledged Revenues for purposes and on the terms and conditions set forth in the Ordinance; however, this lien on and pledge of the Pledged Revenues, and the lien and pledge securing the Program Notes is subordinate only to the lien on and pledge of the Pledged Revenues securing the payment of Senior Lien Obligations and the debt service and reserve funds relating to the Senior Lien Obligations, and being on a parity and of equal dignity with the lien and pledge securing the payment of the Program Notes and the Similarly Secured Notes. As provided in Chapter 1208, Texas Government Code, the lien is valid, binding and fully perfected on the passage of the Ordinance without physical delivery or transfer of control of the Pledged Revenues, the filing of the Ordinance or any other act.

The City intends to refinance Program Notes issued from time to time pursuant to the terms of the Ordinance through the issuance of refunding bonds issued under authority of Chapter 1207, Texas Government Code, and the Program Notes so refunded shall be treated as having the intended terms and payment schedule of the refunding bonds issued under Chapter 1207, Texas Government Code, as provided in Section 1371.057(c), Texas Government Code.

Chapter 1208, Texas Government Code, as amended, applies to the issuance of the Program Notes and the pledge of the Pledged Revenues granted by the City under this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Program Notes are outstanding or any amount is owing under the Note Purchase Agreement such that the pledge of the Pledged Revenues granted by the City is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then to preserve to the Noteholders and the Bank the perfection of the security interest in the pledge, the City agrees to take measures as it determines are reasonable and necessary under Texas law to comply with the

applicable provisions of Chapter 9, Texas Business & Commerce Code, and enable a filing to perfect the security interest in the pledge to occur.

SECTION 18. FUNDS SECURED. Moneys in all funds and accounts, to the extent not invested, shall be secured in the manner prescribed by law for securing moneys of the City.

SECTION 19. NOTE PURCHASE AGREEMENT. The Note Purchase Agreement, including, without limitation, the form of Financial Security attached thereto, substantially in the form attached to the Ordinance as **Exhibit B**, is hereby approved, and shall be entered into with the Bank. Each Authorized Representative is authorized to execute and deliver the Note Purchase Agreement and the other Related Documents (as defined in the Note Purchase Agreement), and to take such other actions as shall be required under the Note Purchase Agreement in connection with the issuance of the Financial Security. The Note Purchase Agreement shall constitute a “credit agreement” under Chapter 1371. Each Authorized Representative is hereby authorized to take such action to effectuate the intent of the Note Purchase Agreement, including finalizing the Note Purchase Agreement and making certain non-substantive amendments to the Note Purchase Agreement, including any adjustments to the Stated Amount pursuant to Section [2.1] of the Note Purchase Agreement.

SECTION 20. ORDINANCE TO CONSTITUTE A CONTRACT; EQUAL SECURITY. In consideration of the acceptance of the Program Notes by those who shall hold the same from time to time, the Ordinance constitutes a contract between the City and the Holders from time to time of the Program Notes and the Bank and the pledge made in the Ordinance by the City and the covenants and agreements set forth in the Ordinance to be performed by the City shall be for the equal and proportionate benefit, security and protection of all Holders of the Program Notes and the Bank, without preference, priority or distinction as to security or otherwise of any of the Program Notes authorized by the Ordinance over any of the others by reason of time of issuance, sale or maturity or otherwise for any cause, except as expressly provided in or permitted by the Ordinance or, with respect to the Program Notes, the Note Purchase Agreement.

SECTION 21. APPLICATION OF PRIOR COVENANTS. The covenants and agreements (to the extent the same do not conflict with the covenants and agreements in the Ordinance) contained in the ordinances authorizing the issuance of the Senior Lien Obligations are incorporated by reference into the Ordinance and are for the benefit and protection of the Bank and its rights under and pursuant to the Note Purchase Agreement in like manner as applicable to the Senior Lien Obligations; provided, however, in the event of any conflict between the terms, covenants and agreements contained in the Ordinance and the terms, covenants and agreements contained in the ordinances authorizing the issuance of the Senior Lien Obligations, the provisions of the ordinances authorizing the issuance of the Senior Lien Obligations shall control.

SECTION 22. RATES AND CHARGES. The City hereby agrees and reaffirms its covenants to the holders of the Senior Lien Obligations and covenants to the Bank that it will at all times maintain rates and charges for the services furnished, provided, and supplied by the System which shall comply with the provisions of ordinances authorizing the issuance of the

Senior Lien Obligations, be reasonable and non-discriminatory and produce Gross Revenues in each Fiscal Year from the System sufficient:

- (a) to pay the Maintenance and Operating Expenses;
- (b) to produce Net Revenues sufficient to pay (i) the principal of and interest on the Senior Lien Obligations and to make all required payments to the special funds or accounts created for the payment and security of the Senior Lien Obligations and (ii) the amounts required to be deposited in any reserve or contingency fund created for the payment and security of the Senior Lien Obligations and any other obligations or evidences of indebtedness issued or incurred that are payable from and equally and ratably secured solely by a first lien on and pledge of the Net Revenues;
- (c) to produce Net Revenues, together with any other lawfully available funds (including the proceeds of Debt which the City expects will be utilized to pay all or part of the principal and/or interest on any obligations described in this subsection (c)), sufficient to pay the principal of and interest on any Subordinate Lien Obligations and any Additional Subordinate Lien Obligations and the amounts required to be deposited in any reserve or contingency fund created for the payment and security of the Subordinate Lien Obligations, any Additional Subordinate Lien Obligations; and
- (d) to pay any other Debt payable from the Net Revenues and/or secured by a lien on the System.

SECTION 23. SYSTEM FUNDS. Pursuant to **Section 21** hereof, the City hereby reaffirms its covenant to the holders of the currently outstanding Senior Lien Obligations and hereby covenants with respect to the Holders of the Notes, that all Gross Revenues shall be deposited as received by the Board in the “City of New Braunfels, Texas, Utility System Fund” (as established by the Senior Lien Obligations Ordinances and hereinafter referred to as the *System Fund*), which shall be maintained at a Depository and kept separate and apart from all other funds of the City and the Board, and monies in the System Fund shall be applied as provided in the Senior Lien Obligations Ordinances. The City covenants to the Holders of the Notes and to the Bank, as follows:

- (a) The Board, on behalf of the City, shall make the deposits and payments from the Pledged Revenues and/or Net Revenues in the System Fund when and as required by the Senior Lien Obligations Ordinances, and such deposits shall be made in the order and with the priorities set forth in the Senior Lien Obligations Ordinances. All Net Revenues to be applied by the Board for the payment of (i) principal and/or interest on any Program Notes or (ii) principal and/or interest on any Program Notes and amounts from time to time due and owing under the Note Purchase Agreement (which are considered Subordinate Lien Obligations), shall be deposited into the Note Payment Fund for the payment of principal of and/or interest on Program Notes when due and to the Program Note Fund (being the fund created and established under Subsection (b) below), if and when necessary, to pay when due those City obligations specified in Subsection (b) below.

(b) There is hereby created and there shall be established and maintained on the books of the Board at a Depository a separate fund to be known as the “Program Note Fund” for the sole benefit of the Program Notes and the Bank under the Note Purchase Agreement. All Net Revenues, to be applied by the Board in the manner specified in Subsection (a) above, for the payment, when due, of principal of and/or interest on the Program Notes and amounts owed from time to time under the Note Purchase Agreement shall be deposited into the Program Note Fund.

The City hereby authorizes, within the Program Note Fund and at the direction of an Authorized Representative, the creation and establishment of one or more accounts to provide for one account to relate each series with respect to which the City has entered into the Note Purchase Agreement.

SECTION 24. BONDS. The City hereby acknowledges that the Program Notes are being issued as bond anticipation notes, and the City in good faith shall endeavor to sell a sufficient principal amount of Bonds in order to have funds available, together with other available moneys, to pay the principal and interest on the Program Notes, or any renewals of the Program Notes, as the same shall become due, and any other amounts due under the Note Purchase Agreement. The City does not reasonably expect to pay the principal and interest on the Program Notes with Pledged Revenues.

SECTION 25. COMPLIANCE WITH SENIOR LIEN OBLIGATIONS ORDINANCES AND OTHER DOCUMENTS. The City will comply with the terms and provisions of the ordinances authorizing the Senior Lien Obligations, and any other ordinance or contract to which the City is a party, the non-compliance with which would materially adversely affect the ability of the City to make payments on the Program Notes when due.

SECTION 26. TAXABLE PROGRAM NOTES NOT TAX EXEMPT. The Program Notes are not obligations described in section 103 of the Code, the interest on which is not includable in the “gross income” of the holder for purposes of federal income taxation.**ONGOING CONTINUING DISCLOSURE COVENANT.** To the extent required by the provisions of Rule 15c2-12 (Rule) promulgated by the U.S. Securities and Exchange Commission, the City agrees to enter into an agreement to file financial information and operating data with respect to the Program Notes with the Electronic Municipal Marketplace Access (EMMA) system administered by the MSRB. The City agrees to provide the Bank a written copy of the City’s continuing disclosure undertaking filings in connection with its Separate Lien Electric Utility Obligations that it files with the MSRB.

SECTION 28. EVENTS OF DEFAULT. If one or more of the following events shall occur:

(a) if default in the due and punctual payment of any installment of principal of and interest on any Program Note occurs, when and as the same shall become due and payable, whether at maturity or otherwise;

(b) an “Event of Default” shall have occurred and be continuing under the Note Purchase Agreement;

(c) if default by the City in the performance or observance of any other of the covenants, agreements or conditions on its part in the Ordinance or in the Program Notes occurs, and the default shall continue for a period of sixty (60) days after written notice has been received by the City from the Bank, a Holder of the Program Notes, or the Paying Agent/Registrar; provided, however, if the default cannot be cured within the sixty (60) day period but corrective action to cure the default is commenced and diligently pursued by the City until the default is corrected, the default shall not be an Event of Default; and provided, further, that so long as the Agreement is in effect and the Bank has not failed to honor a properly presented and conforming request for an Authorized Installment under the Agreement, no Event of Default shall be deemed to have occurred under this clause (c) unless the notice provided above to the City has been consented to in writing by the Bank;

(d) if there shall occur the dissolution (without a successor being named to assume the rights and obligations) or liquidation of the City or the filing by the City of a voluntary petition in bankruptcy, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of its creditors, or the entry by the City into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceeding for the adjustment of its debts instituted under the provisions of the Bankruptcy Code, as amended, or under any similar act in any jurisdiction which may be in effect or enacted; or

(e) if an order or decree shall be entered, with the consent or acquiescence of the City, appointing a receiver or receivers of the System, or any part of the System, or of the rents, fees, charges or other revenues of the System, or if an order or decree, having been entered without the consent or acquiescence of the City shall not be vacated or discharged or stayed within ninety (90) days of its entry;

then any event described above is an “Event of Default” under the Ordinance.

SECTION 29. SUITS AT LAW OR IN EQUITY AND MANDAMUS. In case any Event of Default occurs, then the Bank and the Holder of any Program Note at the time outstanding is entitled to proceed to protect and enforce its rights by appropriate judicial proceeding as the Holder or the Bank, respectively, determines most effectual to protect and enforce its rights, either by suit in equity or by action at law, whether for the specific performance of any covenant or agreement contained in the Ordinance, or in aid of the exercise of any power granted in the Ordinance, or to enforce any other legal or equitable right vested in the Holders of Program Notes by the Ordinance or the Program Notes or by law. The provisions of the Ordinance shall be a contract with each and every Holder of Program Notes and the Bank, and the duties of the City shall be enforceable by any Noteholder or the Bank, respectively, by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction.

SECTION 30. REMEDIES NOT EXCLUSIVE. No remedy conferred upon or reserved to the Bank, or the Holders of Program Notes by the Ordinance is intended to be exclusive of any other remedy, and every remedy shall be cumulative, and may be exercised at any time or from time to time, and as often as may be necessary, by the Bank or the Holder of any one or more of the Program Notes.

SECTION 31. RESERVATION OF RIGHT TO ISSUE ADDITIONAL SENIOR LIEN OBLIGATIONS, ADDITIONAL SUBORDINATE LIEN OBLIGATIONS.

(a) Additional Senior Lien Obligations. The City hereby expressly reserves the right to hereafter issue Additional Senior Lien Obligations in accordance with the provisions of the Senior Lien Obligations Ordinances, payable from and secured by a lien on and pledge of the Net Revenues of the System prior in right and claim to the lien and pledge securing the payment of any Subordinate Lien Obligations or obligations with a pledge of the Net Revenues inferior and subordinate to the pledge of the Net Revenues to the Subordinate Lien Obligations.

(b) Additional Subordinate Lien Obligations. The City hereby reserves, the right to issue, at any time, obligations payable from and equally and ratably secured, in whole or in part, by a lien on and pledge of the Net Revenues, subordinate and inferior in rank and dignity to the lien on and the pledge of such Net Revenues securing the payment of the Senior Lien Obligations issued from time to time by the City or obligations with a pledge of the Net Revenues on a parity with or inferior and subordinate to the pledge of the Net Revenues to the Subordinate Lien Obligations, as may be authorized by the laws of the State of Texas.

SECTION 32. AMENDMENTS OR MODIFICATIONS WITHOUT CONSENT OF HOLDERS OF NOTES. The Ordinance and the rights and obligations of the City and of the Holders of Program Notes may be modified or amended at any time by a supplemental ordinance, subject to the requirements of the Note Purchase Agreement, but only to the extent permitted by law, and, subject to the consent of the Bank and the Holders of the Program Notes:

(a) to add to the covenants and agreements of the City in the Ordinance, other covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved to or conferred upon the City by the Ordinance;

(b) to increase the principal amount of Similarly Secured Notes that may be outstanding at any one time under the terms of the ordinances authorizing the issuance of Similarly Secured Notes, or to issue additional Program Notes or commercial paper notes under the Act;

(c) to cure any ambiguity or inconsistency, or to cure or correct any defective provision contained in the Ordinance, upon receipt by the City of an approving opinion of Bond Counsel, that the amendment is necessary or advisable, and will more clearly express the intent of the Ordinance;

(d) to supplement the security for the Notes, replace or provide additional credit or liquidity facilities, make changes, modifications or amendments as may be necessary or desirable in order to obtain the approval of the Ordinance by the Attorney General of Texas, as required by **Section 39**, or to obtain or maintain the granting of a rating on the Program Notes by a nationally recognized municipal bond rating agency, or change the form of the Program Notes, or make any other changes in the provisions that are necessary or desirable and which shall not materially adversely affect the security, rights or interests of the Bank or the Holders of the Program Notes;

provided, however, that no amendment to the Ordinance or of the Program Notes is permitted to:

- (i) Make any change in the maturity of any outstanding Program Notes or the Initial Note;
- (ii) Reduce the rate of interest borne by any outstanding Program Notes or the Initial Note;
- (iii) Reduce the amount of the principal payable on any outstanding Program Notes or the Initial Note;
- (iv) Modify the terms of payment of principal of or interest on the outstanding Program Notes or the Initial Note, or impose any conditions with respect to their payment;
- (v) Affect the security, rights or interests of the Bank or the Holders of less than all of the outstanding Program Notes; or
- (vi) Reduce or restrict the pledge made pursuant to **Section 17** for payment of the Program Notes or the Initial Note;

and provided, further, that no change, modification or amendment shall be made in the Ordinance or become valid and effective (i) without the approval of the change, modification or amendment by the Attorney General of the State of Texas, to the extent required by the Act, and (ii) without the prior written consent of the Bank (which, in the case of an amendment authorizing an increase in the principal amount of Program Notes at any one time outstanding, shall mean the written consent of the Bank providing, as of the effective date of the authority to issue additional Program Notes in excess of the maximum principal amount of Program Notes then authorized at any one time to be outstanding.

SECTION 33. ADDITIONAL ACTIONS. Any Authorized Representative, the City Secretary, and the other officers of the City, each are authorized, jointly and severally, to do any and all things and to execute and deliver any and all certificates, instruments and other documents which they may deem necessary or advisable in order to consummate the issuance, sale and delivery of the Program Notes and to effectuate the purposes of the Ordinance, the Note Purchase Agreement, and the Paying Agent/Registrar Agreement. By passing the Ordinance, council authorizes the payment of the fees and expenses incurred and to be paid by the City in connection with the issuance, sale and delivery of the Program Notes and the execution and delivery of the Note Purchase Agreement, and the Paying Agent/Registrar Agreement, including, without limitation, fees of Rating Agencies.

SECTION 34. LIMITATION OF BENEFITS WITH RESPECT TO THE ORDINANCE. With the exception of the rights or benefits expressly conferred by the Ordinance, nothing expressed or contained in, or implied from the provisions of, the Ordinance or the Program Notes is intended or should be construed to confer upon or give to any person other than the City, the Holders of the Program Notes, the Bank, the Paying Agent/Registrar, and the parties to the Note Purchase Agreement, any legal or equitable right, remedy or claim under or by reason of or in respect to the Ordinance or any of its covenants, conditions, stipulations, promises, agreements or provisions. The Ordinance and all of the covenants, conditions, stipulations, promises,

agreements and provisions are intended to be and shall be for and inure to the sole and exclusive benefit of the City, the Holders of the Program Notes, the Paying Agent/Registrar, and the parties to the Note Purchase Agreement.

SECTION 35. MANAGEMENT OF THE SYSTEM. The complete management and control of the System during such time as any Debt is outstanding shall be vested in the Board pursuant to the provisions of Section 24 of the Senior Lien Obligations Ordinances which provisions are hereby incorporated by reference and Chapter 1502, as amended, Texas Government Code.

SECTION 36. PAYING AGENT/REGISTRAR AGREEMENT. The Paying Agent/Registrar Agreement by and between the City and [_____], relating to the Program Notes, substantially in the form to the Ordinance as **Exhibit C**, is approved as to form and content, and any Authorized Representative is authorized to execute the Paying Agent/Registrar Agreement for and on behalf of the City, and the City Secretary is authorized to place the City seal on the Paying Agent/Registrar Agreement. Any Authorized Representative is hereby authorized to enter into any supplemental agreement with the Paying Agent/Registrar or with any successor Paying Agent/Registrar in order to implement the functions of the Paying Agent/Registrar with respect to the Program Notes. Any successor Paying Agent/Registrar shall be a financial institution of recognized national standing organized and existing under the laws of the United States of America or the State of Texas and which has trust powers. The successor Paying Agent/Registrar shall have assumed the duties of the Paying Agent/Registrar to be replaced before it shall be relieved of the obligation to perform the duties as Paying Agent/Registrar, and the successor Paying Agent/Registrar shall have executed an agreement substantially in the same form and substance as the Paying Agent/Registrar Agreement approved by the Ordinance.

SECTION 37. OPINION OF BOND COUNSEL. The City shall cause the legal opinion of Bond Counsel as to the validity of the Program Notes to be furnished to any Holder without cost.

SECTION 38. DELEGATION AUTHORITY. Furthermore, though such parties may be identified, and the entry into a particular contract may be authorized, herein, pursuant to the Act, and any other applicable law, the City Council hereby delegates to any Authorized Representative the authority to independently select the counterparty to any contract that is determined by such party, NBU's Financial Advisor, or NBU's Bond Counsel to be necessary or incidental to the issuance of the Notes and which contract does not have a total value to such counterparty in excess of \$1,000,000 (to include, with respect to the Notes, the Paying Agent/Registrar, any rating agency, and DTC) and, as necessary, to execute (now, heretofore, or hereafter) the same on behalf and as the act and deed of the City. As a result of the foregoing, any such contracts are exempt from the provisions of Section 2252.908, as amended, Texas Government Code.

SECTION 39. APPROVAL OF ATTORNEY GENERAL. The Authorized Representative shall submit the Ordinance and a transcript of proceedings to the Attorney General of the State of Texas for approval, as required by the Act. No Program Notes shall be sold or delivered by an Authorized Representative until the Attorney General of the State of Texas shall have approved the Ordinance, the Note Purchase Agreement and other agreements and proceedings as may be required by the Act. Council authorizes the payment of the fee of the Office

of the Attorney General of the State of Texas for the examination of the proceedings relating to the issuance of the Program Notes, in the amount determined in accordance with the provisions of Section 1202.004, Texas Government Code.

SECTION 40. SECTION 2252.908, TEXAS GOVERNMENT CODE. The City shall not execute the Note Purchase Agreement or the Paying Agency Agreement unless the each of the parties has confirmed to an Authorized Representative that either it (i) has made disclosure filings to the Texas Ethics Commission in accordance with Section 2252.908, Texas Government Code or (ii) is exempt from making filings under Section 2252.908(c)(4), Texas Government Code. If clause (i) of this **Section 40** applies to any party, within 30 days of receipt of any such disclosure filing the filing will be acknowledged by the City in accordance with the rules of the Texas Ethics Commission.

SECTION 41. SEVERABILITY. If any one or more of the covenants, agreements or provisions contained in the Ordinance shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason be held invalid, then those covenants, agreements or provisions shall be null and void and shall be separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions of, or of the Notes issued under, the Ordinance.

SECTION 42. CITY'S CONSENT TO PROVIDE INFORMATION AND DOCUMENTATION TO THE TEXAS MAC. The Municipal Advisory Council of Texas (the *Texas MAC*), a non-profit membership corporation organized exclusively for non-profit purposes described in section 501(c)(6) of the Internal Revenue Code and which serves as a comprehensive financial information repository regarding municipal debt issuers in Texas, requires provision of written documentation regarding the issuance of municipal debt by the issuers thereof. In support of the purpose of the Texas MAC and in compliance with applicable law, the City hereby consents to and authorizes any Authorized Representative, NBU's Bond Counsel, and/or NBU's Financial Advisor to provide to the Texas MAC information and documentation requested by the Texas MAC relating to the Program Notes. This consent and authorization relates only to information and documentation that is a part of the public record concerning the issuance of the Program Notes.

SECTION 43. EFFECTIVE DATE. The Ordinance is passed on one reading as authorized by Section 1201.028, Texas Government Code, and is effective immediately upon its passage.

PASSED AND APPROVED this ____ day of June, 2026.

CITY OF NEW BRAUNFELS, TEXAS

By: _____
Mayor

ATTEST: _____

City Secretary

APPROVED AS TO FORM:

City Attorney

(CITY SEAL)

EXHIBIT A

Form of Program Note:

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF NEW BRAUNFELS, TEXAS,
UTILITY SYSTEM REVENUE
PROGRAM NOTE, TAXABLE
SERIES

No.: _____
Maximum Principal Amount: _____

Note Date: _____
Maximum Maturity Date: _____

Interest Rate (%): Base Rate (as defined in the Note Purchase Agreement)
Owner: Wells Fargo Bank, National Association

The City of New Braunfels (the “City”), in Comal and Guadalupe Counties, State of Texas, FOR VALUE RECEIVED, hereby promises to pay, solely from the sources hereinafter identified and as hereinafter stated, to the order of the party specified above on the maturity date recorded by the Paying Agent/Registrar on the attached Schedule of Authorized Installment Deliveries or the date of prior redemption as provided in the Note Purchase Agreement, the principal sum specified above, or if less, the principal amount of each Authorized Installment purchased by the Bank under the Note Purchase Agreement and recorded by the Paying Agent/Registrar on the attached Schedule of Authorized Installment Deliveries, and to pay interest, if any, on said principal amount at said maturity date, from the specified note date recorded by the Paying Agent/Registrar on the attached Schedule of Authorized Installments to said maturity date at the Base Rate (or as otherwise provided in the Note Purchase Agreement) as provided in the Note Purchase Agreement (computed on the basis of actual days elapsed and a 360 day year); both principal and interest on this Note being payable in lawful money of the United States of America at the designated corporate trust office of the Paying Agent/Registrar executing the “Certificate of Authentication” endorsed hereon and appearing below, or its successor, or as otherwise provided in the Ordinance. Defined terms used herein shall have the same meaning given to said terms in the hereinafter defined Ordinance, unless the context of the use of such term indicates otherwise. The Base Rate borne by this Note, as adjusted pursuant to the Note Purchase Agreement, shall not exceed the Maximum Interest Rate.

This Initial Note is one of an issue of Program Notes (the “Program Notes” or the “Notes”) which has been duly authorized and issued in accordance with the provisions of an ordinance (the “Ordinance”) passed by the City Council of the City for the purpose of financing Project Costs of Eligible Projects for the City’s System (the “System”); to refund obligations issued in connection with an Eligible Project; and to refinance, renew or refund Program Notes or Senior Lien Obligations and any other authorized obligations of the System, including interest thereon, issued

for Eligible Projects; all in accordance in strict conformity with the provisions of the laws of the State of Texas, including the Act.

The initial Authorized Installment of the Program Notes issued on the Original Issue Date is in the principal amount of \$5,000. Thereafter, additional Authorized Installments of the Notes in an aggregate principal amount not to exceed \$25,005,000 may be issued on any date so long as the total aggregate principal amount of Notes issued does not exceed \$25,005,000, as reflected in the Schedule of Authorized Installment Deliveries attached to this Note. The foregoing notwithstanding, in no event shall an Authorized Installment of the Program Notes be issued after the end of the Authorized Installment Draw Period, and in no event shall an Authorized Installment be issued and delivered in an amount that exceeds the Maximum Available Amount in effect as of the date of the applicable draw on the Financial Security; provided that the aggregate principal amount of all Authorized Installments issued and delivered under the Ordinance may at times exceed the then applicable Maximum Available Amount due to a reduction in such amount subsequent to the issuance of Authorized Installments pursuant to the terms of the Financial Security but in no case shall the aggregate principal amount of all Authorized Installments issued and delivered under the Ordinance exceed \$25,005,000.

This Program Note and each Authorized Installment recorded on the Schedule of Authorized Installment Deliveries attached to this Note, and any other amounts owing under the Note Purchase Agreement, are payable from and equally secured by a lien on and pledge of (i) the proceeds from the sale of Bonds issued and to be used to pay outstanding Program Notes, (ii) the amounts held in the Note Payment Fund until those amounts are used for authorized purposes, and (iii) the Pledged Revenues of the System, however, (a) on a parity with the lien and pledge securing the payment of the Program Notes made under and pursuant to the Note Purchase Agreement and all other amounts payable by the City under the Note Purchase Agreement and the Similarly Secured Notes, and (b) subordinate to the lien on and pledge securing the payment of Senior Lien Obligations. As provided in the Ordinance, this Program Note is being issued as a bond anticipation note.

This Program Note is payable solely from the sources hereinabove identified securing the payment thereof, and the Program Notes do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any other property of the City or the System. The holder hereof shall never have the right to demand payment of this obligation from taxation or any sources or properties of the City except as identified above.

If there is any inconsistency or conflict between the terms or provisions of this Program Note and the Ordinance, the terms and provisions of the Ordinance shall control.

It is hereby certified and recited that all acts, conditions and things required by law and the Ordinance to exist, to have happened and to have been performed precedent to and in the issuance of this Program Note, do exist, have happened and have been performed in regular and in due time, form and manner as required by law and that the issuance of this Program Note, together with all other Program Notes, is not in excess of the principal amount of Program Notes permitted to be issued under the Ordinance.

This Program Note has all the qualities and incidents of a negotiable instrument under the laws of the State of Texas.

This Program Note shall not be entitled to any benefit under the Ordinance or be valid or become obligatory for any purpose until this Program Note shall have been authenticated by the execution by the Paying Agent/Registrar of the Certificate of Authentication hereon.

IN TESTIMONY WHEREOF, the City Council has caused the seal of the City to be duly impressed or placed in facsimile hereon, and this Note to be signed with the imprinted facsimile signature of the Mayor and attested by the facsimile signature of the City Secretary.

City Secretary, City of New Braunfels,
Texas

Mayor, City of New Braunfels,
Texas

(SEAL)

Form of Authentication Certificate of Paying Agent/Registrar

PAYING AGENT/REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This Note is one of the Program Notes delivered pursuant to the within mentioned Ordinance; the note or notes of the above titled and designated series originally delivered having been approved by the Attorney General of the State of Texas as registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

as Paying Agent/Registrar

By: _____
Authorized Signatory

Form of Schedule of Authorized Installment Deliveries to appear on the Program Note(s)

SCHEDULE OF AUTHORIZED INSTALLMENT DELIVERIES

Issue Date	No.	Principal Amount	Remaining Available Principal Balance	Maturity Date	Date Paid	Principal and Interest Paid

EXHIBIT B

Form of Note Purchase Agreement

See Tab No. []

EXHIBIT C

Paying Agent/Registrar Agreement